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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,643	06/25/2003	C. David Shook	8142	2758
67886	7590	09/18/2008		
WOODLING, KROST AND RUST 9213 CHILLICOTHE ROAD KIRTLAND, OH 44094			EXAMINER NGUYEN, CAMTU TRAN	
			ART UNIT	PAPER NUMBER
			3772	
			MAIL DATE	DELIVERY MODE
			09/18/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/603,643

Applicant(s)

SHOOK ET AL.

Examiner

Camtu T. Nguyen

Art Unit

3772

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment & Arguments

This Office Action is responding to applicant's amendment filed on 3/27/2008. Claims 1 & 3 have been amended. Claim 20 has been cancelled.

Applicant's comments directed to the objections to the drawings are noted and persuasive. Thus, those objections are withdrawn.

Applicant's comments directed to the Gold/Sabin et al combination applied in the previous Office Action are noted and persuasive, particularly the Gold/Sabin et al combination do not offer a moldable gel pad. Thus, such rejection has been withdrawn.

Applicant's comments directed to the Gold/Beisang et al combination are noted however the Gold/Beisang et al combination is maintained and are applied based on the interpretation presented below.

The claims, as amended, have been carefully considered but are treated in following manner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-6, 9, 10, 13-15 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (U.S. Patent No. 5,187,814) in view of Beisang, III et al (U.S. Patent No. 4,596,250). Gold discloses in Figures 6 and 7 a sock (400) with attached heater pack (34) comprising elements as recited in these claims including the sock (400) having a chamber (450) for receiving the heater pack (30). The Gold reference does not teach a moldable gel pad. Beisang, III et al discloses a moldable cool/heat pack (2). With regards to the term "gel", the Beisang, III et al pack (2) is filled with a medium (16), of which principally is comprised of de-ionized water and the next prevalent ingredient is propylene glycol. Beisang, III et al discloses that mixing proper proportions of water & propylene glycol, a dough-like substance is form (column 5 lines 50-53). One skilled in the art would recognize that the dough-like substance is an amorphous material, a type of gel that is consistent with applicant's disclosure in the specification on page 7 lines 1-3. Therefore it would have been obvious to one skilled in the art during the time of the invention to use the Beisang, III et al in Gold's stocking sock (400) as such would be readily & easily to conform to the user's foot, ankle, and leg, thus, for purposes of uniformly apply pressure thereto. With regards to the term "pad", the Beisang, III et al "pack" would fully capable of being used as a pad.

With regards claims 1, 3, 9, & 16, reciting the stocking device being used for treating venous insufficiency", such is a mere functional recitation and a mere statement of intended use.

With regards to claims 5, 6, and 13 reciting the folded portion, the Gold's sock (400) at the upper end is foldable over itself, which is consistent with applicant's specification on page 8 lines 8-9 & 15-17. With regards to these claims reciting the stitched portion to form the sleeve

portion, one skilled in the art would not disagree that Figure 7 in the Gold reference illustrates inner chamber wall (403) is stitched to the outer chamber wall (402) to form the chamber (450).

Claims 7 & 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (U.S. Patent No. 5,187,814), modified by Beisang, III et al (U.S. Patent No. 4,596,250), and further in view of Knox (U.S. Patent No. 5,814,003). Gold, as modified by Beisang, III et al, presented above, discloses in Figures 6 and 7 a sock (400) comprising a chamber/sleeve (450) receiving a moldable gel pack but does not suggest the chamber/sleeve (450) extend 360 degrees within the sock (400). Knox et al discloses in Figures 1 & 2 a stocking (10) comprising a pocket (16) extending continuously around the entire circumference of the stocking (10), see column 4 lines 56-61. Therefore, one skilled in the art during the time of the invention would have been motivated to modify the Gold's chamber/sleeve (450) to extend 360 degrees within the stocking (400), as taught by Knox et al for the purpose of positioning the moldable gel pad virtually at any location about the user's limb.

Claims 11 & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (U.S. Patent No. 5,187,814), modified by Beisang, III et al (U.S. Patent No. 4,596,250), and further in view of Dison (U.S. Patent No. 3,259,915). Gold, as modified by Beisang, III et al, presented above, discloses in Figures 6 and 7 a sock (400) comprising a chamber/sleeve (450) receiving a moldable gel pad/pack but does not suggest a compression stocking presiding over the understocking. Dison discloses in Figure a double sock (10) such that sock (12) is presiding over sock (12). Therefore, one skilled in the art would have modified the Gold/Beisang, III et al combination such that its sock (450) would have sock (12) presiding over it as taught by Dison as such would keep the user's toes warm.

Claims 1-4, 9, 10, and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salley (U.S. Patent No. 6,142,961). Salley discloses in Figures 1-4 a venous pressure gradient support device for treating chronic venous insufficiency of lower human extremities, the device comprising a stocking garment (40) and a support device (10) within the stocking garment (40), the support device (10) enveloping a collection of beads (20) therein. The beads (20) are free to move within the support device, making it moldable. With regards to the term "gel", one skilled in the art would recognize that the Salley's beads (20) in the support device (10) is a type of gel that is consistent with applicant's disclosure in the specification on page 7 lines 1-3. The Salley stocking device would perform a method of treating a patient having venous insufficiency.

Claims 11 & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salley (U.S. Patent No. 6,142,961) in view of Dison (U.S. Patent No. 3,259,915). Salley discloses in Figures 1-4 a venous pressure gradient support device but does not suggest a compression stocking presiding over the understocking. Dison discloses in Figure a double sock (10) such that sock (12) is presiding over sock (12). Therefore, one skilled in the art would have modified the Salley's stocking garment (40) as such that its stocking garment (40) would have sock (12) presiding over it as taught by Dison as such would keep the user's toes warm.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 571-272-4799. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Camtu T. Nguyen/
Examiner, Art Unit 3772
/Patricia Bianco/
Supervisory Patent Examiner, Art Unit 3772